

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRAVIS SULTON,

Petitioner,

v.

B. M. TRATE,

Respondent.

No. 1:23-cv-00709-CDB (HC)

ORDER DISMISSING PETITION FOR WRIT
OF HABEAS CORPUS WITHOUT
PREJUDICE FOR PETITIONER'S FAILURE
TO OBEY THE COURT'S ORDERS AND
LOCAL RULES AND FOR FAILURE TO
PROSECUTE

Petitioner Travis Sulton ("Petitioner") is a federal prisoner proceeding pro se and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

I. Background

Petitioner filed the instant habeas petition on May 8, 2023, while in custody of the Bureau of Prisons ("BOP") at United States Penitentiary, Atwater. (Doc. 1). On August 20, 2025, the Court completed a preliminary review of the petition under Rule 4 of the Rules Governing Section 2254 Cases¹. (Doc. 5). Petitioner argues he was denied approximately 270 days of earned time credit that should have been applied to shorten his period of supervised release. (*See generally* Doc. 1). Upon review, because it does not plainly appear that Petitioner is not entitled to relief, the Court ordered Respondent to respond to the petition and set a briefing schedule. (*See* Doc. 5). The

¹ The Habeas Rules may be applied to petitions for writ of habeas corpus other than those brought under § 2254 at the Court's discretion. *See* Habeas Rule 1.

1 Court's order was served upon Petitioner. (*See* 8/20/2025 dkt. entry).

2 On October 15, 2025, the Court's order served upon Petitioner was returned by the U.S.
3 Postal Service marked, "Undeliverable, No Longer at Facility." (*See* 10/15/2025 dkt. entry). On
4 December 2, 2025, a subsequent order of the Court served upon Petitioner similarly was returned
5 by the U.S. Postal Service marked, "Undeliverable, No Longer at Facility." (*See* 12/2/2025 dkt.
6 entry). Accordingly, on December 4, 2025, the Court issued an order to show cause, noting that
7 more than 30 days had passed yet Petitioner had failed to update his address with the Court, and
8 directing Petitioner to respond in writing why the action should not be dismissed for failure to obey
9 this Court's Local Rules and failure to prosecute the action. (Doc. 13). The Court served the order
10 upon Petitioner on December 4, 2025, and on December 16, 2025, the order served upon Petitioner
11 was returned by the U.S. Postal Service marked, "Undeliverable, No Longer at Facility." *See*
12 (12/16/2025 dkt. entry).

13 II. Discussion

14 *Applicable Legal Standards*

15 The Local Rules of this Court, corresponding with Federal Rule of Civil Procedure 11,
16 provide, "[f]ailure of counsel or of a party to comply with these Rules or with any order of the
17 Court may be grounds for the imposition by the Court of any and all sanctions authorized by statute
18 or Rule or within the inherent power of the Court." Local Rule 110. "District courts have inherent
19 power to control their dockets" and, in exercising that power, may impose sanctions, including
20 dismissal of an action. *Thompson v. Housing Auth., City of Los Angeles*, 782 F.2d 829, 831 (9th
21 Cir. 1986). A court may dismiss an action based on a party's failure to prosecute an action, obey a
22 court order, or comply with local rules. *See, e.g., Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th
23 Cir. 1992) (dismissal for failure to comply with a court order to amend a complaint); *Malone v.*
24 *U.S. Postal Service*, 833 F.2d 128, 130-31 (9th Cir. 1987) (dismissal for failure to comply with a
25 court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to
26 prosecute and to comply with local rules).

27 Local Rule 182(f) provides that a "pro se party is under a continuing duty to notify the Clerk
28 and all other parties of any change of address Absent such notice, service of documents at the

1 prior address of the ... pro se party shall be fully effective.” Further, Local Rule 183(b) provides
 2 that a “party appearing in propria persona shall keep the Court and opposing parties advised as to
 3 his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned
 4 by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within
 5 thirty (30) days thereafter of a current address, the Court may dismiss the action without prejudice
 6 for failure to prosecute.”

7 “In determining whether to dismiss an action for lack of prosecution, the district court is
 8 required to weigh several factors: (1) the public’s interest in expeditious resolution of litigation; (2)
 9 the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public
 10 policy favoring disposition of cases on their merits; and (5) the availability of less drastic
 11 sanctions.” *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (internal quotation marks &
 12 citation omitted). These factors guide a court in deciding what to do and are not conditions that
 13 must be met in order for a court to take action. *In re Phenylpropanolamine (PPA) Products*
 14 *Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006) (citation omitted).

15 Similarly, Federal Rule of Civil Procedure 41(b) allows the Court to dismiss an action if the
 16 petitioner fails to comply with a court order. Fed. R. Civ. P. 41(b). “By its plain text, a Rule 41(b)
 17 dismissal . . . requires a court order with which an offending [petitioner] failed to comply.” *Applied*
 18 *Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 891 (9th Cir. 2019) (internal quotation marks,
 19 citation, and footnote omitted). The Court must analyze five factors before dismissing a case
 20 pursuant to Rule 41(b): “(1) the public’s interest in expeditious resolution of litigation; (2) the
 21 court’s need to manage its docket; (3) the risk of prejudice to the [respondents]; (4) the public policy
 22 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.”
 23 *Id.* (quoting *Yourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999)); *Pagtalunan v. Galaza*,
 24 291 F.3d 639, 642 (9th Cir. 2002). These factors guide a court in deciding what to do and are not
 25 conditions that must be met in order for a court to take action. *In re Phenylpropanolamine (PPA)*
 26 *Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006) (citation omitted)

27 ***Analysis***

28 Here, Petitioner has failed to file a notice of change of address or to otherwise advise the

1 Court of his current address. A search of the BOP's inmate database shows Petitioner was released
2 from custody as of November 26, 2024.²

3 Thus, Petitioner has failed to comply with the Court's order to show cause and Local Rules
4 and, as Petitioner has failed to provide the Court an address at which to effect service, there are no
5 other reasonable alternatives available to address Petitioner's failure to respond and otherwise obey
6 this Court's orders. Thus, the first and second factors—the expeditious resolution of litigation and
7 the Court's need to manage its docket—weigh in favor of dismissal. *Carey*, 856 F.2d at 1440. The
8 third factor, risk of prejudice to Respondent, also weighs fairly in favor of dismissal since a
9 presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action.
10 *See Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). This matter cannot proceed further
11 without Petitioner's participation to prosecute the case by, among other things, providing an address
12 at which Respondent can serve documents. The presumption of injury holds given Petitioner's
13 unreasonable delay in prosecuting this action. Thus, the third factor—a risk of prejudice to the
14 Respondent—also weighs in favor of dismissal. *Carey*, 856 F.2d at 1440.

15 The fourth factor usually weighs against dismissal because public policy favors disposition
16 on the merits. *Pagtalunan*, 291 F.3d at 643. However, “this factor lends little support to a party
17 whose responsibility it is to move a case toward disposition on the merits but whose conduct
18 impedes progress in that direction.” *In re PPA*, 460 F.3d at 1228. Petitioner has not moved this
19 case forward toward disposition on the merits. Rather, his failure to comply with this Court's orders
20 and Local Rules prevents the action from progressing given his failure to provide a current address
21 within the timeframe set forth in Local Rule 183(b). Therefore, the fourth factor — the public
22 policy favoring disposition of cases on their merits — also weighs in favor of dismissal. *Carey*,
23 856 F.2d at 1440. Finally, the Court's warning to a party that failure to obey the court's order will
24 result in dismissal satisfies the “considerations of the alternatives” requirement. *Ferdik*, 963 F.2d
25 at 1262. Here, as discussed above, the Court's order to show cause cautioned Petitioner that failure
26 to comply would result in dismissal of the action. (Doc. 13 at 3). The case opening documents

27 ² Federal Bureau of Prisons Inmate Locator, *available at* <https://www.bop.gov/inmateloc/>
28 (last accessed on December 23, 2025).

1 advised Petitioner that, absent notice to the Court of any change of address, “service at the prior
2 address shall be fully effective.” (Doc. 3 at 2); *see* Local Rule 182(f).

3 In sum, Petitioner has failed to comply with this Court’s orders and Local Rules, and in
4 doing so, has failed to prosecute this action. Having weighed the equities and considered the
5 relevant factors noted above, the undersigned concludes that dismissal of this action is warranted.

6 **III. Conclusion and Order**

7 Accordingly, the Court DISMISSES this action, without prejudice, for Petitioner’s failure
8 to obey the Court’s orders and Local Rules and failure to prosecute.

9 The Clerk of the Court is directed to close this case and terminate any deadlines.

10 IT IS SO ORDERED.

11 Dated: **December 23, 2025**

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14 UNITED STATES MAGISTRATE JUDGE
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